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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H-2008-365

LEONA ROSE RHOADES, R.C.P.
14250 Hillsborough Drive
Victorville, CA 92392

A C C U S A T I O N

Respiratory Care Practitioner License No. 21631

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 13, 2000, the Respiratory Care Board issued Respiratory Care Practitioner License Number 21631 to LEONA ROSE RHOADES, R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“....”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“....”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“....”

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of any offense which substantially relates to the qualifications, functions, or duties of a respiratory care practitioner is deemed to be a conviction within

1 the meaning of this article. The board shall order the license suspended or revoked, or
2 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
3 conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section
5 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
6 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
7 accusation, information, or indictment.”

8 8. California Code of Regulations, title 16, section 1399.370, states, in
9 pertinent part:

10 “For the purposes of denial, suspension, or revocation of a license, a crime or act
11 shall be considered to be substantially related to the qualifications, functions or duties of
12 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
13 perform the functions authorized by his or her license or in a manner inconsistent with the
14 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
15 those involving the following:

16 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
17 abetting the violation of or conspiring to violate any provision or term of the Act.

18 “....”

19 “(c) Conviction of a crime involving driving under the influence or reckless
20 driving while under the influence.

21 “....”

22 COST RECOVERY

23 9. Section 3753.5, subdivision (a) of the Code states:

24 "In any order issued in resolution of a disciplinary proceeding before the board,
25 the board or the administrative law judge may direct any practitioner or applicant found to have
26 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
27 investigation and prosecution of the case."

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1 10. Section 3753.7 of the Code states:

2 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
3 include attorney general or other prosecuting attorney fees, expert witness fees, and other
4 administrative, filing, and service fees."

5 12. Section 3753.1 of the Code states:

6 "(a) An administrative disciplinary decision imposing terms of probation may
7 include, among other things, a requirement that the licensee-probationer pay the monetary costs
8 associated with monitoring the probation. "

9 FIRST CAUSE FOR DISCIPLINE

10 (Conviction of a Crime)

11 13. Respondent is subject to disciplinary action under sections 3750,
12 subdivisions (d) and (g), and 3752, in that she was convicted of a crime substantially related to
13 the qualifications, functions, or duties of a respiratory care practitioner. The circumstances are as
14 follows:

15 A. On or about February 5, 2008, the Hesperia School Police Department was
16 notified that respondent was on school campus and possibly under the influence of alcohol. An
17 officer made contact with respondent and detected the odor of alcohol on her breath as she spoke.
18 The officer noticed that respondent had blood shot eyes and was unsteady on her feet.
19 Respondent proceeded to sit down and informed the officer that she was starting to feel ill. The
20 officer conducted field sobriety tests on respondent to determine whether she was under the
21 influence of a controlled substance or alcohol. A Preliminary Alcohol Screening revealed
22 respondent's blood alcohol content to be 0.28 percent.

23 B. Respondent indicated during the suspect interview that she had driven to
24 the school to pick up her son; however, once she arrived at the school, respondent realized she
25 did not get enough sleep. Respondent indicated that she then called her mother to pick up her
26 son. The officer arrested respondent and issued her a citation for violating Penal Code section
27 647, subdivision (f) [drunk in public].

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1 C. On or about June 12, 2008, in the case of *The People of the State of*
2 *California v. Leona Rose Rhoades*, case number MVI801600, before the Superior Court of
3 California, County of San Bernardino, respondent pled guilty, pursuant to a plea bargain, of
4 violating Penal Code section 647, subdivision (f) [drunk in public]. Respondent was placed on
5 one year probation and ordered not to violate any law other than minor traffic and to not drink in
6 public.

7 DISCIPLINE CONSIDERATIONS

8 14. To determine the degree of discipline, if any, to be imposed on respondent,
9 Complainant alleges that on or about January 29, 2008, at approximately 2:18 p.m., respondent
10 was arrested in Hesperia by a San Bernardino County Sheriff's officer, who had been responding
11 to a traffic collision, for driving under the influence. Respondent failed the field sobriety tests
12 presented to her and appeared to be so intoxicated that she could not follow the officer's simple
13 instructions. Based on his observations of respondent, the officer arrested her for violation of
14 Vehicle Code section 23152(a) [driving under influence of alcohol] and section 23152(b)
15 [driving under influence of alcohol with a blood alcohol content of .08 or higher].

16 15. Complainant also alleges that on or about June 6, 2008, at approximately
17 11:22 p.m., respondent was arrested in Hesperia by a San Bernardino County Sheriff's officer,
18 who had been responding to a traffic collision, for driving under the influence. The officer
19 conducted field sobriety tests on respondent to determine whether she was under the influence of
20 a controlled substance or alcohol. A Preliminary Alcohol Screening revealed respondent's blood
21 alcohol content to be 0.321 percent. Based on the Preliminary Alcohol Screening and his
22 observations of respondent, the officer arrested her for violation of Vehicle Code section
23 23152(a) [driving under influence of alcohol] and section 23152(b) [driving under influence of
24 alcohol with a blood alcohol content of .08 or higher].

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner License Number
5 21631, issued to Leona Rose Rhoades, R.C.P.;

6 2. Ordering Leona Rose Rhoades, R.C.P. to pay the Respiratory Care Board
7 the costs of the investigation and enforcement of this case, and if placed on probation, the costs
8 of probation monitoring;

9 3. Taking such other and further action as deemed necessary and proper.

10 DATED: November 20, 2008

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13 Original signed by Colleen Whitestine for:
14 STEPHANIE NUNEZ
15 Executive Officer
16 Respiratory Care Board of California
17 State of California
18 Complainant

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